

**FOSTERING CONNECTIONS TO SUCCESS AND INCREASING ADOPTIONS ACT**  
**H.R. 6893**

**TITLE I – CONNECTING AND SUPPORTING RELATIVE CAREGIVERS**

Category	Current Law	New Law
<b>KINSHIP GUARDIANSHIP AND SUPPORTING RELATIVE CAREGIVERS</b>	Relatives must become foster parents and meet the foster parent licensing and training requirements and receive payments not as a kin parent but as a foster parent.	Gives states the option to use federal Title IV-E funds for kinship guardianship payments for children raised by relative caregivers
	N/A	Children eligible under this provision must also be eligible for federal foster care maintenance payments and must reside with the relative for at least six consecutive months in foster care to be eligible for the kinship guardianship assistance payment.
	Reasonable efforts must be made (with certain exceptions) to preserve and reunify families or if that is not possible place a child according to the permanency plan.	Children eligible under this provision are those for whom return home and adoption are ruled out and who likely would otherwise remain in foster care until they aged out of the system.
	N/A	The kinship guardianship assistance payment rate for these children may equal but must not exceed the foster care payment that would have been paid had the child remained in a foster family home.
	Federal Title IV-E waiver authority has expired and those waivers that were at the end of their approved time (five years) where to expire.	States that provided guardianship assistance or services as part of a IV-E waiver demonstration project may continue to claim IV-E funds for provision of those same supports to children who are receiving under a waiver as it existed on September 30, 2008 (grandfathering of relatives currently using the waiver to claim funds to provide care).

Category	Current Law	New Law
<b>KINSHIP GUARDIANSHIP AND SUPPORTING RELATIVE CAREGIVERS (CONT.)</b>	Allows youths likely to remain in foster care to age 18 to qualify for independent living services and youths likely to remain in foster care to age 18 and youths adopted from foster care after reaching age 16, to qualify for training vouchers.	Allows children who leave foster care after age 16 for kinship guardianship (or adoption) to be eligible for independent living services and education and training vouchers.
<b>FAMILY CONNECTION GRANTS</b>	Limited amount of annual funds (\$30 million in 2009) available for competitive grants to fund regional partnership that may provide residential family substance abuse treatment.	Authorizes a new grant program for activities designed to connect children in foster care (or at risk of entering foster care) with family.
	N/A	Funds can be used for: 1) kinship navigator programs; 2) intensive family-finding efforts; 3) family group decision-making meetings for children in the child welfare system, with special attention to children exposed to domestic violence; or 4) residential family substance abuse treatment programs.
	Regional partnership funding is \$20 million in 2010 and in 2011 and must include the state child welfare agency as a partner along with local entities including the courts, tribal child welfare agencies or nonprofit organizations.	Guarantees \$15 million a year for competitive, matching grants to state, local, or tribal child welfare agencies and nonprofit organizations that have experience working with children in foster care or kinship care
	Funding for regional partnerships was \$40 million in 2007, \$35 million in 2008, \$30 million in 2009 and \$20 million in 2010 and 2011.	\$5 million of the \$15 million in guaranteed funds are reserved each year for grants for kinship navigator programs.
<b>NOTICE TO RELATIVES</b>	No requirement.	Requires state agencies to exercise due diligence to identify and provide notice to all adult relatives of a child within 30 days after the child is removed from the custody of the parent(s).

Category	Current Law	New Law
<b>LICENSING STANDARDS FOR RELATIVES</b>		The bill clarifies that under current guidance states may waive non-safety licensing standards (as determined by the state) on a case-by-case basis in order to eliminate barriers to placing children with relatives.
	All relatives must meet the licensing requirements of foster parents. Through HHS regulation, states have been allowed to waive some requirements on a case by case basis.	Requires the Department of Health and Human Services (HHS) to submit a report to Congress within two years that examines state licensing standards, states' use of case-by-case waivers, and the effect of the waivers on children in foster care, reviews the reasons relative foster family homes may not be able to be licensed, and recommends administrative or legislative actions to allow more children to be safely placed in foster care and be eligible for federal support.
<b>TITLE II – IMPROVING OUTCOMES FOR CHILDREN IN FOSTER CARE</b>		
<b>CONTINUING FEDERAL SUPPORT FOR CHILDREN IN CARE AFTER AGE 18</b>	<p>In general, a child may no longer be eligible for Federal foster care maintenance payments or adoption assistance payments once he or she has attained 18 years of age.</p> <p>However, in the case of a foster care maintenance payment, a child who at his or her 18th birthday is still a fulltime high school student (and who can reasonably be expected to complete this degree) may remain eligible until his or her 19<sup>th</sup> birthday.</p>	<p>Allows states to provide care and support to youth in foster care until the age of 19, 20, or 21 provided that the youth is either</p> <ol style="list-style-type: none"> <li>1) completing high school or an equivalency program;</li> <li>2) enrolled in post-secondary or vocational school;</li> <li>3) participating in a program or activity designed to promote, or remove barriers to employment;</li> <li>4) employed for at least 80 hours per month; or</li> <li>5) incapable of doing any of these activities due to a medical condition.</li> </ol>

Category	Current Law	New Law
<b>CONTINUING FEDERAL SUPPORT FOR CHILDREN IN CARE AFTER AGE 18 (CONT.)</b>		Allows protections and requirements currently in place for younger children in foster care to apply to youth ages 18-21.
	If adoption assistance payments are being made on behalf of a child, and the State determines that the child has a “mental or physical handicap” that warrants continued assistance, it may continue to provide these payments until the child’s 21 <sup>st</sup> birthday.	Allows states to extend adoption assistance and/or guardianship payments on behalf of youth ages 19, 20, or 21 if young person is 16 or older before adoption assistance/guardianship agreement became effective.
<b>TRANSITION PLAN FOR CHILDREN AGING OUT OF FOSTER CARE</b>	A State is required to have in place a case review system for each child in foster care to, among other things, periodically review the child’s status in foster care and to develop and carry out a permanency plan for the child.	Requires child welfare agencies to help youth develop a transition plan during the 90-day period immediately before a youth exits from care at 18, 19, 20, or 21.
		The plan must be as detailed as the child chooses and include specific options on housing, health insurance, education, local opportunities for mentoring, continuing support services, work force supports and employment services
<b>DEFINITION OF CHILD CARING FACILITY</b>	To be eligible for Federal foster care maintenance payments, a child must be living in a foster family home or in a “child-care institution.”	The definition of child caring facility for someone 18 or older includes a supervised setting for independent living
<b>EFFECTIVE DATE OF THIS STATE OPTION</b>	N/A	The state may exercise the option to extend the age of care starting on October 1, 2010 (Federal FY 2011)
<b>EXPANDING IV-E FOR PRIVATE AGENCY TRAINING</b>	Title IV-E training dollars can cover only public agency personnel.	Expands the availability of federal Title IV-E training dollars to cover training of staff not only in public agencies but in private child welfare agencies as well as court personnel, attorneys, guardian ad litem, and court appointed special advocates.

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<b>EXPANDING IV-E FOR PRIVATE AGENCY TRAINING (CONT.)</b>		Allows IV-E training dollars to be used to train prospective relative guardians in addition to foster and adoptive parents.
	Federal training match for public agency personnel is 75%.	The federal funding match for this category of new training (kinship, private agencies, court personnel) is phased in over 5 years. The current federal matching rate of 75% would be reduced to 55% in 2009, 60 % in 2010, 65% in 2011and 70% in 2012.
<b>PROMOTING EDUCATIONAL STABILITY</b>	A State is required to maintain an individual written case plan for each child in foster care. Among other things, this case plan must include the child's health and education records with an assurance that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of the placement.	Requires state child welfare agencies to improve educational stability for children in foster care by coordinating with local education agencies to ensure that children remain in the school they are enrolled in at the time of placement into foster care, unless that would not be in the child's best interests.
		If remaining in the same school is not in the child's best interest, the state must ensure immediate enrollment in a new school with all of the educational records of the child provided to that new school.
	States are also entitled to receive federal reimbursement of 50% of their costs related to the "proper and efficient" administration of their Title IV-E foster care program. Guidance has been provided that indicates that transportation of a child in foster care to and from his/her school of origin is a Title IV-E administrative function and, thus, that 50% of the costs of this transportation may be claimed as a Title IV-E administrative cost.	The cost of transportation from a child's foster home to that child's school can be calculated as part of the foster care payment.
	The law requires each child on whose behalf federal foster care maintenance payments or adoption assistance payments are made to meet certain federal eligibility requirements.	Requires states to provide assurances in their Title IV-E state plans that every school-age child in foster care, and every school-age child receiving an adoption assistance or subsidized guardianship payment, is enrolled as a full-time elementary or secondary school student or has completed secondary school.

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<b>HEALTH OVERSIGHT AND COORDINATION PLAN</b>	A State is required to maintain an individual written case plan for each child in foster care. Among other things, this case plan must include the child's health and education records.	Requires states to develop, in coordination and collaboration with the state Medicaid agency and in consultation with pediatricians and other experts, a plan for the ongoing oversight and coordination of health care services for any child in foster care. The state health plan must include: <ol style="list-style-type: none"> <li>1) health screening and follow up screenings</li> <li>2) how needs will be identified and addressed</li> <li>3) how medical information will be updated and shared</li> <li>4) steps taken to ensure continuity of care including the possible use of medical homes for each child</li> <li>5) oversight of medication</li> <li>6) how the state consults with medical and nonmedical professions on the appropriate treatment of children</li> </ol>
		Nothing in these plans relieves the state Medicaid agencies of their responsibilities
<b>SIBLING PLACEMENT</b>	N/A	States must make reasonable efforts to place siblings in the same foster care, kinship guardianship, or adoptive placement, unless doing so would be contrary to the safety or well-being of any of the siblings.
		If siblings are not placed together, the state must make reasonable efforts to provide frequent visitation or other ongoing interaction between the siblings, unless this interaction would be contrary to a sibling's safety or well-being.

TITLE III – TRIBAL FOSTER CARE AND ADOPTION ACCESS		
Category	Current Law	New Law
<b>DIRECT ACCESS TO TITLE IV-E FUNDS</b>	Tribes are not permitted to submit such a plan to HHS and may not receive direct Federal funding under Title IV-E.	Allows tribes direct access to IV-E funding. Currently, Indian tribes cannot access Title IV-E funds to administer their own foster care or adoption assistance programs but instead must have an agreement with a state government to access IV-E funds, which more than half of the federally recognized tribes do not have.
		These new tribal provisions take effect on October 1, 2009 (FY 2010)
<b>STATE PLAN REQUIREMENTS</b>		Creates the option for tribes or tribal consortia to directly access and administer IV-E funds by submitting a plan.
	<p>Among these are requirements related to provision of foster care and adoption assistance to eligible children and statewide operation of the program. Under Federal regulations States may not use affidavits or nunc pro tunc orders to retroactively establish that a child's removal from his or her home was a result of a judicial determination that the home was "contrary to the welfare" of that child.</p> <p>Further, as part of seeking Federal reimbursement for the foster care and adoption assistance program, States are required by Federal regulation to have an HHS-approved cost allocation plan that details the costs that will be assigned to the program and how Federal reimbursement will be sought. States are not permitted to claim Title IV-E costs based on in-kind expenditures from third party sources.</p>	<p>The plan must include:</p> <ol style="list-style-type: none"> <li>1) Evidence of sound financial management</li> <li>2) A description of the service area</li> <li>3) Assurances that the use of Title IV-E funds will be for coverage of foster care, special needs adoptions and (at tribal option) kinship guardianship assistance payment to only those children eligible for Title IV-E funds.</li> </ol>

<b>MATCHING FUND REQUIREMENTS</b>	N/A	The plan may indicate that in providing a match for the administrative and training costs, the tribe may use in-kind contributions (FY 2009 through FY 2014) for a share of the match.
	N/A	The in-kind match may include the use of plants, equipment, administration and services. For FY 2010 and FY 2011, 25 percent of the match for administration may come from state and local governments, other tribes, colleges, or charities. For FY 2010 and FY 2011, 12 percent of the match may come from these same sources.
	N/A	For FY 2012-14, HHS is directed to write regulations on the definitions of in-kind contributions.
<b>MATCHING FUND REQUIREMENTS (CONT.)</b>		The tribe or consortia shall establish a single authority or authorities which shall be responsible for establishing and maintaining tribal child welfare standards.
	In general, each State has a Federal Medical Assistance Percentage (FMAP) – sometimes called the “Medicaid matching rate” – which is used to determine the share of a State’s eligible foster care maintenance and adoption assistance payments that will be reimbursed by the Federal government. A State’s FMAP may range from 50% (for States with highest per capita income) to 83% (for State’s with lowest per capita income).	The federal matching rate (FMAP) for the non-administrative/training costs shall be based on the service population except the FMAP shall not be lower than the state FMAP in that tribal area. HHS must consider data on per capita income a tribe or consortia may submit in making its calculation of the tribal FMAP.
<b>Category</b>	<b>Current Law</b>	<b>New Law</b>



<b>CURRENT TRIBAL STATE AGREEMENTS</b>	States that operate Title IV-E foster care and adoption assistance programs may enter into agreements with other public agencies to provide foster care to children. (As of March 2008, there were approximately 86 tribal-State Title IV-E agreements in effect, involving 11 States.)	Current agreements between a tribe(s) and the state may still be in effect subject to the provisions in that agreement.
<b>CHAFFEE INDEPENDENT LIVING</b>	States receive a share of capped mandatory funding to provide independent living services to youth who are expected to remain in foster care until their 18 <sup>th</sup> birthday and to youth who have emancipated from foster care (until their 21 <sup>st</sup> birthday). They also receive a share of any discretionary appropriations provided for Education and Training Vouchers to support the post-secondary education (or comparable training) of older foster youth.	A tribe that is running its own Title IV-E program may apply for access to a portion of the state's Chafee Foster Care Independence Program (CFCIP) funds.
<b>Category</b>	<b>Current Law</b>	<b>New Law</b>

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<b>CHAFFEE INDEPENDENT LIVING (CONT.)</b>	A State must apply to receive funding under the Chafee Foster Care Independence program and must meet certain planning requirements and certifications as a part of the applications. HHS must pay to each State, the lesser of 80% of its Chafee Program cost (including those for Education and Training Vouchers) or the State's full allotment under these funding streams.	A tribe submits a plan to HHS that indicates how the Chaffee program will be carried out, eligibility of youth in the tribe area, the consultation process with the state to assure youth continue to receive services in the transition.
	A State's allotment of funds out of the mandatory Chafee funding (\$140 million annually) is based on its relative share of the national foster child population, except that no State may receive less than \$500,000 or the amount of funding they received for independent living services in FY1998. A State's allotment of any discretionary funding appropriated for Education and Training Vouchers (FY2008 funding = \$45 million) is based entirely on its relative share of the national foster care caseload.	In awarding funding to the applying tribe HHS will create a process that allocates Chaffee funds based on the number foster children in the tribal service area compared to that state's number of foster children.

<b>TRIBAL ASSISTANCE IN IMPLEMENTING</b>	<p>There is no foster care and adoption assistance State plan requirement (under Title IV-E) that a State and tribe must cooperate in the provision of services to eligible children.</p> <p>According to Title IV-B, subpart 1, States are required to consult with tribal organizations and to describe the specific measures taken to comply with the Indian Child Welfare Act.</p> <p>Under the Chafee Foster Care Independence Program, however, a State must certify that it has consulted with each Indian tribe located within its borders about its planned independent living programs, that efforts to coordinate the programs with these tribe(s) have been made, and that the benefits and services it provides under the programs will be made available to Indian children in the State on the same basis as to other children.</p>	<p>The state plan requirements are amended to direct states to negotiate in good faith with a tribe that has a Title IV-E program, access to resources for administration, training and data collection.</p>
		<p>HHS is directed to issue regulation within 1 year of enactment except for those regulations issued in regard to in-kind contributions.</p>
		<p>The Secretary of the Department of Health and Human Services shall provide technical assistance, implementation services, and grants to assist tribes in the transition to administering their own programs.</p>
		<p>One-time grants of up to \$300,000 may be provided to applying tribes to implement a plan.</p>
		<p>\$3 million is appropriated starting in FY 2009 (October 1, 2008).</p>
<b>Category</b>	<b>Current Law</b>	<b>New Law</b>

## TITLE IV – IMPROVEMENT OF INCENTIVES FOR ADOPTION

Category	Current Law	New Law
<b>ADOPTION INCENTIVES PROGRAM</b>	State may be eligible for Adoption Incentive awards for increasing the <b>number</b> of children who are adopted out of foster care in each of FY1998-FY2007. Funds appropriated for Adoption Incentives may not be expended after FY2008.	Enhances incentives in current law to promote the adoption of children from foster care and allows states to receive an additional payment of \$1000 per adoption if the state's adoption <b>rate</b> exceeds its highest recorded foster child adoption rate since 2002. Extends the current Adoption Incentive Grant Program for an additional five years.
	States are awarded for increasing the number of adoptions out of foster care in the following amounts: \$4,000 for each foster child adoption that is above its base number of adoptions in this category; \$4,000 for each adoption of a child from foster care who is age 9 or older that is above its base number of adoptions in this category; and (provided the State has also earned either a foster child or older child adoption award), \$2,000 for each special needs adoption of a child (who is under the age of nine) that is above its base number of adoptions in this category.	States are awarded for increasing the number of adoptions out of foster care in the following amounts: \$8000 per older child (nine and older) adoption and \$4000 per special needs adoption above the baseline. This doubles the incentive for these adoptions.
	A State has a "base number" of adoptions for each category of adoptions under which it may earn an Adoption Incentive award – foster child adoptions, older child adoptions and adoptions of special needs children (who are under the age of 9). Those base numbers are equal to the number of adoptions the State finalized in each of those categories in FY2002 OR any year after that in which it achieved a higher number.	Updates to FY 2007 the adoption baseline above which incentive payments are made.
	States may spend Adoption Incentive awards in the fiscal year for which they are awarded and in the following fiscal year.	Gives states 24 months to use the adoption incentive payments.

<b>PROMOTION OF ADOPTION OF CHILDREN WITH SPECIAL NEEDS</b>	<p>A child is considered to have “special needs” if the State determines that: 1) the child cannot or should not be returned to his/her home; 2) because of a factor defined by the State and specific to the child – e.g., the child’s age, race/ethnicity, membership in a sibling group, physical, mental or emotional disabilities or medical conditions – he or she is unlikely to be adopted without provision of medical assistance or adoption assistance; and 3) it has made efforts (unless this is against the best interests of the child) to place the child for adoption without providing medical or adoption assistance on the child’s behalf, but these efforts have been unsuccessful.</p>	<p>Children who are eligible for SSI, based solely on the medical and disability requirements, would automatically be considered children with special needs and eligible for adoption assistance without regard to the SSI income requirements.</p>
<b>Category</b>	<b>Current Law</b>	<b>New Law</b>

<b>ADOPTION DE-LINK</b>	<p>A child who has “special needs” (as determined by each State) is eligible for Federal adoption assistance if the child meets the requirements of at least one of the following eligibility pathways:</p> <p>1) AFDC: The child was removed from the home of a parent or other relative under a voluntary placement agreement or because a judge found the home of the parent or other relative to be “contrary to the welfare” of that child, AND, if while living in that home, the child would have met all income, family structure, and other eligibility requirements necessary to be determined a “needy” child under the Aid to Families with Dependent Children (AFDC) program (as that program existed on July 16, 1996).</p> <p>2) SSI: The child meets all the eligibility criteria for Supplemental Security Income (SSI), including those related to income and medical/physical disability.</p> <p>3) Child of a minor parent: The child lives with his/her minor parent who is in foster care, and the minor parent meets either the AFDC or SSI eligibility criteria and is receiving Federal foster care maintenance payments that include funds to cover costs of the child.</p>	
Category	Current Law	New Law

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<b>ADOPTION DE-LINK (CONT.)</b>	Current eligibility for federal funding of adoption assistance (similar to foster care maintenance support) allows federal funding only if a child was removed from a family that would have been eligible for AFDC cash assistance as it existed on July 16, 1996.	This provision “de-links” a child’s eligibility for federal adoption assistance payments from outdated AFDC income requirements, which will ultimately increase the number of children with special needs who can be adopted with federal funding support.
		This expansion of children eligible for federal adoption assistance payments will be phased in over nine years. In the first year children 16 and older are de-linked from AFDC eligibility. In the second year 14 and older, by 2018 all age groups.
		In addition any child who has spent five years (at least 60 consecutive months in care) is eligible and any siblings of an eligible child is eligible.
		As children are phased-in, those children with special needs who are involuntarily or voluntarily placed with or relinquished to the care of a licensed private child placement agency or Indian tribal organization, as well as those in the care of public state or local agencies, will also be eligible for adoption assistance.
<b>ADOPTION TAX CREDIT</b>	The Internal Revenue Code permits taxpayers who adopt a child to claim a tax credit for all qualifying adoption costs up to the maximum credit. (The maximum credit was equal to \$11,390 in tax year 2007.) It also provides that any taxpayer who adopts a child meeting the State’s definition of “special needs” may claim the full credit amount (without having to show any qualifying costs).	Ensures that children in foster care benefit from the adoption tax credit by requiring states to inform all people who are adopting or are known to be considering adopting a child in the custody of the state that they are potentially eligible for the adoption tax credit.

**OFFSETS: COVERING THE COST OF THE LEGISLATION:**

**TITLE V- CLARIFICATION OF UNIFORM DEFINITION OF CHILD**

<b>Category</b>	<b>Current Law</b>	<b>New Law</b>
<b>DEFINITION OF QUALIFYING CHILD</b>	<p>Under the uniform definition, in general, a child is a qualifying child of a taxpayer if the child satisfies each of these tests:</p> <ul style="list-style-type: none"> <li>○ the child has the same principal place of abode as the taxpayer for more than one half the taxable year</li> <li>○ the child has a specified relationship to the taxpayer</li> <li>○ the child has not yet attained a specified age.</li> </ul> <p>A tie-breaking rule applies if more than one taxpayer claims a child as a qualifying child.</p>	<p>Modifies the definition of qualifying child to ensure that</p> <ul style="list-style-type: none"> <li>○ the “qualifying child” is younger than the individual claiming them</li> <li>○ the “qualifying child” is not married</li> <li>○ the person claiming the “qualifying child” has a higher adjusted gross income than the birth parent(s).</li> </ul>
<b>INVESTMENT OF OPERATING CASH</b>	<p>The Treasury Department is responsible for short-term management of excess Federal operating cash, which it can invest in short-term obligations of the United States government or collateralized obligations of certain financial institutions that maintain Federal Treasury tax and loan accounts. The Treasury Department is not permitted to require the sale of obligations by a particular person, dealer, or financial institution.</p>	<p>The U.S Treasury is given greater flexibility in investing operating cash yielding a savings to the federal government.</p>